

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

In the Matter of)	
)	
Level 3 Communications, LLC's Petition for Arbitration)	04-0428
Pursuant to Section 252(c) of the Communications Act of)	
1934, as amended by the Telecommunications Act of 1996,)	
and the Applicable State Laws for Rates, Terms, and)	
Conditions of Interconnection with Illinois Bell Telephone)	
Company d/b/a SBC Illinois)	

STAFF OF THE ILLINOIS COMMERCE COMMISSION'S

DISPUTED FACT LIST

Pursuant to the Order of the Administrative Law Judge ("ALJ") issued September 10, 2004, the Staff of the Illinois Commerce Commission (hereafter "the Staff") hereby submits its List of Disputed Facts, by which it means the facts that its testimony places in dispute, and upon which it intends to conduct cross-examination of witnesses during the evidentiary hearing. Staff understands this Disputed Fact List to constitute an aid to the refinement cross-examination at the hearing, and Staff reserves the right to inquire into areas not within the ambit of this list if circumstances warrant. It is not intended to, and does not in any way, constitute agreement by the Staff that facts other than those listed here are the subject of any stipulation or agreement. Moreover, the Staff reserves the right to identify additional material disputed facts that may be alleged in rebuttal testimony submitted by Level 3 or SBC in response to Staff's testimony. This list does not include disputed matters of law and policy, and the Staff reserves the right to make such arguments as it views warranted in these areas.

The disputed facts are organized by subject matter. However, such organization is intended to facilitate ease of use, and Staff notes that there is a certain amount of factual overlap in certain subject matter areas. Staff does not view the subject matter classifications as limiting upon it, and reserves the right to direct cross-examination to any witness whose testimony addresses or implicates such disputed facts.

A. Single Point Of Interconnection (“SPOI”)

ITR Issues: 4 (Level 3 a,b and SBC a, b), 10 (Level 3 a and SBC a,c), 11 (Level 3 a), 12 (Level 3 b, SBC b), 14 (Level 3 a,b and SBC a,b)

NIM Issues: 2 (Level 3 and SBC), 3 (Level 3 and SBC), 4, 5, 6 (Level 3, SBC)

DEF Issues: 5 (Level 3, SBC) 303

1. Do SPOI arrangements contribute to tandem exhaust, and if so to what extent?
2. What is the number of POIs at which SBC and Level 3 currently interconnect?
3. Does the number of POIs that are consistent with “the most efficient way to interconnect” vary with the size of the respective parties’ networks and/or customer bases?
4. Does Level 3 intend to dismantle existing POIs (reduce the number of POIs it currently has with SBC in Illinois) in the future?
5. Can SBC deliver any amount of traffic Level 3 passes to SBC from any SBC tandem to any another SBC tandem with no cost to SBC above what it would incur if Level 3 did not pass traffic to SBC?
6. Does SBC have fiber optic facilities between every Level 3 / SBC POI that Level 3 can select under its proposal and every SBC end office where traffic (sent to SBC by Level 3) will be terminated?
7. What, if any, cost information supports the proposition that the incremental costs associated with the use of existing fiber optic facilities for transport to POIs is extremely small or not measurable?

8. What costs are incurred – and by which party or parties -- by the use of multiple POIs, and how do these differ from single POI arrangements?
9. Does Level 3 have any end user customers?
10. Does Level 3 currently recover the costs of providing services on its side of the POI from SBC through reciprocal compensations charges?
11. Does Level 3 provide service to any of its customers (e.g. ISP customers) and recover the costs of serving that customer exclusively through recovery of intercarrier compensation and with no recovery from the Level 3 customer?
12. To the extent that SBC might, over time, lose end user customers, would this result in its use of fewer switches / need for fewer POIs? Would any financial benefit accrue under such circumstances?
13. What expenses are associated with various forms of interconnection?
14. Are any ISPs collocated with Level 3?
15. Are any VoIP providers collocated with Level 3? If there are, what percentage of VoIP traffic currently sent to Level 3 by SBC is bound for ISPs collocated with Level 3?
16. How far do the parties haul traffic to POIs, and to what extent would this change if either party's proposal were adopted?

B. Combining Local And Access Traffic On The Same Trunks

Note: Staff Testimony refers to these matters as "Common Trunk Group Issues".

ITR Issues: 1(Level 3, SBC), 4 (Level 3 a), 11(Level 3 b,c, SBC b), 12(Level 3a, SBC a), 16(a, b, c), 18(SBC b) 351

NIM Issues: 1, 5

DEF Issues: 1, 9(Level 3, SBC a,b), 10(Level 3, SBC a,b), 11(Level 3, SBC a,b), 12(Level 3, SBC a,b), 13(Level 3, SBC), 14(Level 3, SBC a,b) 356

IC Issues: 4(Level 3 a,b, SBC), 17(Level 3)

1. Has the Commission previously addressed this issue, and if so, how?

2. What capacity are trunk groups? For example, can a trunk group consist of 5 trunks or are there some discreet multiples like 24 trunks?
3. Why are trunks "grouped"? That is, why not have multiple individual trunks between two switches?
4. How, if at all, does the number of ports used on each switch vary according to the way trunks and trunk groups are established?
5. How is traffic recorded for purposes of billing-- by trunk, by trunk group, or other?
6. What, if any, relationship exists between traffic measurement and trunk group configuration?
7. What charges are associated with, what intercarrier compensation is due and owing for, and what financial responsibilities are assumed by which party, with respect to each party's proposal with respect to this issue?
8. How do the parties currently exchange traffic, and how, if at all, would each party's proposal change this arrangement?
9. What, if any billing errors might result from each party's proposal, and what steps might be taken under each party's proposal to rectify such errors?
10. What, if any increase / reduction in facilities used would result from each party's proposal?
11. What percentage, if any, of traffic would be misrouted or blocked under each party's proposal?
12. Would Level 3 agree to pay switched access charges for any traffic that cannot be accurately jurisdictionalized, in exchange for the ability to combine traffic under common trunk groups?
13. How would trunks and trunk groups be configured under each party's proposal, and how many facilities would be required? Would these configurations change based upon differing usage scenarios?
14. Does SBC use, in any location or under any circumstances, separate tandem switches for local and toll functionality? If so, does SBC combine traffic on either of these switches without any alteration and/or reprogramming of the switch? Could it do so? If not, what work would need to be completed in order to enable a tandem switch with "local" functionality to handle toll traffic?

15. Does the parties' existing interconnection agreement specify whether IP-enabled traffic is to be exchanged over trunk groups that carry "local" traffic or not?
16. Does the parties' existing interconnection agreement require that the parties exchange interLATA toll traffic over trunk groups that are separate and apart from the trunk groups over which the parties exchange "local" traffic?

C. Transit Traffic

ITR Issues: 2(Level 3, SBC), 5(Level 3, SBC), 6(Level 3, SBC), 8(Level 3, SBC), 9(Level 3, SBC), 15(a, b)

IC Issues: 11(SBC e, f)

1. Are transit services available from third parties?
2. Does Level 3 purchase or provide transit services, or has it done so in the past?
3. Has the Commission previously directed SBC to provide transit?
4. What, if any efficiencies attach to SBC providing transit?
5. What rates should obtain for transit if SBC is required to provide it?

D. FX Traffic Issues

ITR Issues: 14(SBC c)

DEF Issues: 18(a, b), 19(Level 3, SBC), 21(Level 3 b, SBC a,b)

IC Issues: 11(Level 3 a, SBC a), 14(Level 3, SBC), 15 (Level 3, SBC)

1. Has the Commission previously addressed this issue, and if so, how?
2. Does SBC use VNXX to serve ISP's in its Illinois ILEC territory?
3. How do the parties propose to determine the appropriate rate for VNXX calls?

4. What if any aid will a customer's underlying telephone number be in enabling SBC to appropriately rate such calls?
5. Is the ability to use VNXX arrangements a factor that might affect a CLEC's selection of the location of the POI, and if so, why?

E. Internet Enabled Traffic

IC Issues: 2 (Level 3 - a,b,c,d,e,f,g,j,k and SBC), 4 (Level 3 a,b and SBC), 14 (Level 3, SBC), 19 (Level 3 b), 21 (Level 3)

ITR Issues: 18 (Level 3 a, b, c, d and SBC a, b), 19

DEF Issues: 2, 3 (Level 3 a, SBC a,b), 19 (Level 3, SBC)

1. Precisely what type of traffic (in terms of conversion protocols, facilities used, end-user equipment, etc.) is Level 3 exchanging with SBC?
2. What intercarrier compensation rates currently apply to the exchange of IP-PSTN traffic under Level 3 and SBC's existing IA? Upon on what rates, and under what terms and conditions, do the parties currently exchange / route this traffic?
3. What intercarrier compensation rates currently apply to the exchange of PSTN-IP-PSTN traffic under Level 3 and SBC's existing IA? Upon on what rates, and under what terms and conditions, do the parties currently exchange / route this traffic?
3. How do SBC and Level 3 physically exchange IP-enabled traffic, under their existing IA?
4. What is the effect of each party's proposal for rating such traffic?
5. What, if any, steps would the parties need to take to reconfigure their networks to exchange traffic upon the adoption of their respective proposals?
6. Does the current Level 3 - SBC IA specify a rate that is applicable for IP-Enabled services traffic? If so, what is that rate? Under the current Level 3 – SBC IA, is PSTN-IP VoIP traffic a subset of ISP-bound traffic with respect to intercarrier compensation rates or are the two separate and distinct?

7. Does the current Level 3 – SBC IA specify the trunk groups that IP-Enabled traffic are to be delivered over? Is so, what trunk groups are to be used for this traffic?
8. Is all of the traffic Level 3 exchanges with SBC traffic that Level 3 receives and terminates to its ESP customers in an IP format? If not, then what percentage of the traffic Level 3 exchanges with SBC currently falls into this category?
9. Are there differences in the cost that SBC incurs to deliver a long distance call to Level 3 that is a PSTN-IP-PSTN or PSTN-PSTN call, and the cost of SBC to deliver a VoIP long distance call to Level 3 that is a PSTN-IP call?
10. What, if any effect will each of the parties' proposals have upon switched access revenues?
11. What percentage of traffic delivered by each party to the other is VoIP traffic? What percentage is ISP-bound non-VoIP traffic?
12. Is Level 3 a VoIP provider, or an affiliate of one?
13. Is Level 3 seeking interconnection under Section 251(c)(2) of the 1996 Act for the purposes of connecting unaffiliated VoIP providers to SBC's network?
14. Where, in each of the parties' proposed agreements, are physical interconnection arrangements with respect to IP enabled traffic addressed?

F. Intercarrier Compensation

DEF Issues: 7, 8(Level 3, SBC), 21 (Level 3 a, b, SBC a, b)

IC Issues: 5(Level 3, SBC), 10(Level 3 a, b, c, SBC a), 11(Level 3 a, SBC a), 13 (Level 3 a, b, c, d, e), 14(Level 3, SBC), 15(Level 3, SBC), 21(SBC a, b, c) 401

1. Has the Commission previously addressed this issue, and if so, how?
2. Where, in each of the parties' proposed agreements are intercarrier compensation arrangements with respect to IP enabled traffic addressed?

G. Physical And Virtual Collocation

Physical and Virtual Collocation Issues 1

1. Does SBC's proposed language for Issues PC-1 and VC-1 preclude Level 3 from taking advantage of SBC state-mandated tariffs or other offerings, and should it, or should Level 3 be permitted to take out of the tariff under some or all circumstances?
2. Does Level 3's proposed language for Issues PC-1 and VC-1 merely incorporate and acknowledge the existence of events which may result in a change in Applicable Law and clarify that the "parties are obligated to incorporate any methods of interconnection captured in such modifications?"

Physical Collocation and Virtual Collocation Issues 2

1. Would SBC's position on Issues PC-2 and VC-2 unnecessarily delay Level 3's ability to compete and provide services to its customers?
2. Would SBC's position provide it with a "built-in incentive to deny Level 3 of the ability to collocate equipment in order to inhibit Level 3 from fulfilling its obligations to its customers?"
3. Would SBC's position on Issues PC-2 and VC-2 provide SBC with "unbalanced discretion to deny Level 3 collocation of equipment required to provision services to a customer pursuant to its obligations to such customers?"
4. Without the language proposed by SBC for Issues PC-2 and VC-2, does the agreement "already provide adequate safeguards to SBC and appropriate processes to address any grievances as to improperly collocated equipment?"
5. Does SBC's proposed language for Issues PC-2 and VC-2 create ambiguity with respect to the proper level of safety standards?
6. Does the language in the prior agreement and practice under that agreement support Level 3's position with respect to Issues PC-2 and VC-2?
7. What equipment is (a) not necessary for interconnection or access; or (b) does not meet safety standards articulated by SBC?

1. These issues appear to Staff to present no disputed facts, but rather competing policy positions. While Staff has offered testimony on these points, and reserves the right to make such arguments as are warranted, it does not intend to cross-examine on these points.

WHEREFORE, the Staff of the Illinois Commerce Commission hereby tenders its
Disputed Facts List.

Respectfully submitted,

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